Productive Power in Digital Constitutionalism: Analyzing Civil Society Actors' Definitions of Digital Rights

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Recent research on digital constitutionalism highlights a rights-based approach to limiting the exercise of power in the digital communication environment. However, little research has examined multiple and political meanings of digital rights empirically from various actors' perspectives. This article discusses findings from a discourse-theoretical analysis of 12 semi-structured interviews with civil society actors in the context of transnational digital governance. The analysis demonstrates that the concept of digital rights can be viewed as a "floating signifier" on one hand, partially fixed to human rights. On the other hand, digital rights function as a site of discursive struggles that highlight openness and contestation of norms, rights, and principles in relation to the Internet and other digital technologies. The article suggests that the very definitions of norms, rights, and principles related to the Internet and other digital technologies not only limit but also produce power, providing a novel perspective to digital constitutionalism.

Keywords: digital rights, civil society, discourse-theoretical analysis, productive power, digital constitutionalism, Internet governance

Civil society actors' concerns related to the Internet and other digital technologies are being articulated increasingly through the language of rights. Civil society groups have raised awareness of issues associated with state actors' digital practices (Daskal, 2018), for example, repressive laws (Teo, 2021), Internet shutdowns, and surveillance of activists. Simultaneously, the notion of digital rights remains elusive and open to various meanings.[2] This article examines the concept of digital rights as a floating signifier (Laclau, 2005), articulated through varying assumptions in different political contexts (Karppinen & Puukko, 2020).

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[2] The notion of digital rights often remains undefined in political debates. Different actors from civil society to technology companies, governments, and international organizations have referred to "digital human rights" or "digital rights and principles" (e.g., European Commission, 2022; United Nations, 2020).

Recent literature on digital constitutionalism has highlighted civil society actors' bottom-up strategies in entrenching fundamental rights in governing the Internet and other digital technologies and in limiting corporate and state power (Celeste, 2019, 2023; Padovani & Santaniello, 2018; Redeker, Gill, & Gasser, 2018). However, few studies have examined civil society actors' multiple perspectives in the context of emerging digital rights discourses (e.g., Karppinen & Puukko, 2020; Pettrachin, 2018; Redeker et al., 2018; Tan, 2019). This article contributes to the literature by examining definitions of digital rights and identifications with these rights in the context of civil society actors' work. Engaging with research on digital constitutionalism, the article argues that discursive struggles about emerging norms, rights, and principles not only limit but also produce power (e.g., Barnett & Duvall, 2005).

Digital rights have mostly been examined through so-called Internet Bill of Rights documents, shedding light on questions about which rights are included in these documents and how various actors promoting them frame these rights (e.g., Celeste, 2023; Pettrachin, 2018; Redeker et al., 2018). These rights documents have proliferated during the past decades, a trend that has been viewed as indicating a growing interest in digital rights (Celeste, 2023; Redeker, 2021). To complement analyses of these documents, this study analyzes how the notion of digital rights is made meaningful and contested in civil society actors' work through interviews. The aim here is not to establish causality between civil society articulations and specific documents, to provide a comprehensive definition of digital rights (see e.g., Dheere, 2017; Tan, 2019), or to analyze these rights from a legal perspective (see e.g., Maroni, 2022; Yilma, 2017) but rather to enable an understanding of digital rights as a plural and political concept embedded in discursive struggles (Karppinen & Puukko, 2020).

In this article, discourse refers to "practices that systematically form the objects of which they speak" (Foucault, 2002, p. 54). Analyzing discursive practices can show "how specific knowledges ('discourses') operate and the work they do" (Bacchi & Bonham, 2014, p. 174). In this sense, civil society groups are one of the actors participating in knowledge construction concerning digital rights (Padovani, Musiani, & Pavan, 2010). Several studies on digital constitutionalism have used discursive approaches (see Padovani & Santaniello, 2018). This study employed a discourse-theoretical analysis (Carpentier, 2010; Carpentier & De Cleen, 2007) that draws from discourse theory as developed by Laclau and Mouffe (1985). Thus, the practices through which digital rights are articulated are viewed as dynamic processes that involve contestation and are not fixed ultimately (e.g., Griggs & Howarth, 2019).

In what follows, the discourse-theoretical analysis demonstrates that digital rights can be understood as a floating signifier (Laclau, 2005), that is, a discursive construction whose meanings are subject to discursive struggles. While human rights offered a partially fixed structure of meaning for digital rights, the concept also implied contestation, for example, concerning the scope and prioritization of rights in the field. Moreover, the findings focus on how various actors were positioned in relation to dominant articulations (Carpentier & De Cleen, 2007). A qualitative and in-depth approach to civil society actors' articulations provides insights on the entanglement of power in the very definitions of norms, rights, and principles in transnational digital governance.

The article begins with a contextualization of the study through a review of recent research that has focused on power in Internet governance, particularly from a civil society perspective. The following

section discusses digital constitutionalism as a novel approach to Internet governance, while the subsequent sections present the research material and methodology and the discourse-theoretical analysis. Finally, the article reflects on the lens of productive power in relation to digital constitutionalism, followed by concluding remarks and suggested directions for further research.

Civil Society Actors' Roles and Power in Internet Governance

Internet governance is characterized by a complexity of involved institutions, fora, and actors, implying decentralized decision-making power and authority on a global level (Chenou & Radu, 2014; ten Oever, 2021). Accordingly, civil society's role has been examined in different institutional settings and processes over the past few decades (e.g., Haristya, 2020; Radu, 2019). The United Nations (UN) Internet Governance Forum (IGF) is one of the main fora devoted to shaping discourse on Internet policy issues, instead of making binding decisions (DeNardis, 2014; Epstein, 2011). The IGF operates through a multistakeholder model in which civil society comprises one of the stakeholder groups, along with governments, the technical community, and the private sector. However, the focus on institutional fora such as the IGF has also been criticized for missing many actual sites of governance (van Eeten & Mueller, 2013). Recent discussions about civil society participation in the context of multistakeholderism have coincided with increasing demands to reexamine different actors' power (e.g., Zuboff, 2019) and respond with new approaches to digital governance (e.g., Santaniello, 2021).

In the multistakeholderism context, civil society participation has been viewed as more performative than substantial, placing constraints on civil society actors' capacity to influence the agenda (Epstein & Nonnecke, 2016), thereby reinforcing existing power relationships rather than disrupting them (Carr, 2015). Moreover, the coordination of goals among different civil society groups has presented challenges concerning their efficacy (Haristya, 2020). Recent research also has highlighted the diversity and different purposes of civil society groups that participate in global Internet governance fora (Tjahja, Meyer, & Shahin, 2021). Thus, civil society does not necessarily comprise a unified entity with a particular interest or "stake" in digital governance. Furthermore, extant research has found that behind the rather static institutional view on civil society, gaps persist between civil society groups with access and resources to participate on a global level and groups operating in specific national and regional contexts (e.g., Costa e Silva & Lameiras, 2021; Tan, 2019). Ustun (2021) even pointed to the exclusion of dissidents from the global IGF, thereby amplifying their exclusion in authoritarian national contexts.

Contestation around Internet policy issues is not limited to transnational Internet governance fora. Daskal (2018) identified three main arenas—political, judicial, and public—in which digital rights organizations operate on a national level. Digital rights groups' own priorities also vary across regions (e.g., Tan, 2019). For example, Nothias (2020) discussed African digital rights organizations' issue prioritization, that is, focus on Internet shutdowns and other issues instead of net neutrality. According to Nothias (2020), this was one of the factors that enabled Facebook to continue the controversial Free Basics project on the continent, whereas in India, a civil society campaign against the project played a vital role in getting the project banned (Prasad, 2018). Thus, it seems that in research, civil society actors are positioned increasingly as a counterforce to demand human rights accountability not only from public actors but also

directly from platform companies (Jørgensen, 2019) or in setting technical standards (Cath, 2021; ten Oever, 2019).

Simultaneously, different actors' norm entrepreneurship has received growing attention, shedding light on the creation, legitimation, and contestation of transnational norms (Radu, Kettemann, Meyer, & Shahin, 2021). These norms have been viewed as a potential glue between dispersed Internet governance sites, actors, and processes (ten Oever, 2019, 2021). Radu and colleagues (2021) noted a further need to investigate various norm entrepreneurs' power: "As certain principles may take precedence as devices of status quo contestation, the power of 'entrepreneurs' to engage in active expansion or restriction of legitimation tools comes into sharper focus" (p. 3). Civil society actors' bottom-up approaches to shaping global norms have been highlighted in research on digital constitutionalism (e.g., Redeker, 2018).

Digital Constitutionalism: A Rights-Based Approach to Internet Governance

The notion of digital constitutionalism has been used in recent research that has examined the emergence of norms, rights, and principles pertaining to the Internet and digital technologies (Celeste, 2023). Digital constitutionalism has also been discussed as a novel and alternative Internet governance approach (Palladino, 2021) that adds to the models of sovereigntism, neoliberalism, and multistakeholderism by extending democratic representation and protection of fundamental rights (see Santaniello, 2021). While it is beyond the scope of this article to give an exhaustive overview of extant scholarship, digital constitutionalism can be understood as a broad framework encompassing research on the interplay between emerging normative discourses and power in digital governance.

Empirical research on digital constitutionalism has examined the inclusion of rights in Internet Bill of Rights documents that various actors have promoted particularly on the transnational level (Celeste, 2023; Pettrachin, 2018; Redeker et al., 2018). Redeker and colleagues (2018) defined digital constitutionalism as "a constellation of initiatives that have sought to articulate a set of political rights, governance norms, and limitations on the exercise of power on the Internet" (p. 303). Thus, the focus is not only on institutionalized rights but also on various initiatives concerning which rights, norms, and principles should attain formal recognition (Pettrachin, 2018; Redeker et al., 2018).

The Internet Bills of Rights documents have been viewed as corresponding to a broader discourse on rights and principles in the Internet environment (Celeste, 2023; Padovani et al., 2010). On one hand, research has identified certain core rights in the documents (Pettrachin, 2018; Redeker et al., 2018), but on the other hand, various actors also employ constitutional language differently (Mann, Daly, Wilson, & Suzor, 2018; Santaniello, Palladino, Catone, & Diana, 2018). Pettrachin (2018) has found that rights included most often among all stakeholder groups were freedom of expression and privacy, with shifts over time, for example, privacy and personal data protection emerged as being more significant after the so-called Snowden revelations (Pettrachin, 2018; see also Redeker et al., 2018; Yilma, 2017). Thus, as digital constitutionalism corresponds to contentious developments, more empirical research is needed to focus on the dynamics beyond formalized documents.

Moreover, researchers have emphasized an inclusive bottom-up approach to shaping norms, rights, and principles (Celeste, 2023; Redeker, 2018) connected to transnational advocacy networks and epistemic communities that have created and mobilized specific documents (Palladino, 2021). In this sense, digital constitutionalism seems to hold potential for enhancing civil society actors' agenda-setting power. However, according to Franklin (2020), the scope of rights has remained contested in Internet governance. Advocacy networks connected to the IGF have sustained support for initiatives, for example, the Charter of Human Rights and Principles for the Internet (Franklin, 2016). The IGF also functions as a site for launching new documents with different framings,[3] further illustrating some of the diverse manifestations of rights within civil society.

Research on digital constitutionalism has focused on power limitation through these initiatives (Celeste, 2019; Padovani & Santaniello, 2018). As the Internet Bill of Rights documents often remain aspirational, the implementation of norms, rights, and principles has been viewed as a key challenge (Mann et al., 2018; Yilma, 2017). However, Maroni (2022) highlighted the need to also consider power-formation involved in constitutionalism, including constitutions' enabling and legitimizing functions, as well as constitutional language's performative role. Similarly, this article suggests the lens of productive power as a way to account for power involved in the very definition of norms, rights, and principles (Barnett & Duvall, 2005; Foucault, 1980). From this perspective, discourse and power are intertwined: Power is not something to be possessed, for example, as an object of civil society struggles, but is viewed instead as a productive force operating within digital rights discourses. Productive power is inscribed in how a particular meaning "orients social activity in particular directions, defines what constitutes legitimate knowledge, and shapes whose knowledge matters" (Barnett & Duvall, 2005, p. 4). In what follows, the lens of productive power is operationalized through a discourse-theoretical analysis of civil society actors' interviews.

Research Material and Methodology

The article builds on a qualitative research methodology in combination with a discourse-theoretical analysis (Carpentier & De Cleen, 2007; Carpentier, 2010). The research progressed in cycles between data collection and analysis, with these overall questions guiding the research: How do civil society actors define digital rights in the context of their work, and what kind of discursive strategies do they apply to achieve them?

The research material comprises 12 semi-structured interviews conducted in person (n = 7) and remotely (n = 5) during and after the UN IGF in 2019 and 2020. Interviewees were affiliated with the following organizations (listed in alphabetical order): Access Now, Association for Progressive Communications, Collaboration on International ICT Policy for East and Southern Africa, Derechos Digitales, Electronic Frontier Foundation (EFF), LIRNEasia, Paradigm Initiative, Point of View, Renaissance Numérique, SMEX, Wikimedia Foundation, and World Wide Web Foundation. The research process also involved participant observation during the IGF sessions. Field notes from these events, as well as public documents,

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[3] For example, in 2019, Just Net Coalition, one of the civil society networks active in the IGF, released a document, "Digital Justice Manifesto," that called for people's rights and ownership of their data as individuals and collectively (Just Net Coalition, 2019). Another document released at the same global IGF, "Contract for the Web," discussed companies' role in protecting privacy and users' personal data, among other themes (World Wide Web Foundation, 2019).

were used to contextualize the interviews and gain a deeper understanding of the field, but they are not included in the actual discourse-theoretical analysis.

The sampling strategy was purposive. The study aimed to collect rich information on the conceptual field and practices by including interviewees affiliated with different organizations that work with a variety of digital rights–related themes in different geographical locations and that participate in the global IGF or other transnational fora in the capacity of civil society. The interviewees were contacted based on their expertise, and they served in varying roles, from leadership and founders to research and advocacy positions, within their respective organizations, to include diverse perspectives on the field. More interviewees were identified through snowballing. Practical reasons such as availability also impacted the final sample.

Importantly, the study does not intend to portray the full diversity of movements, organizations, and activists working with digital rights worldwide, and the findings are not meant to be generalizable across all civil society articulations. Here, transnational arenas present one context in which the notion of digital rights can arise among other sites. The intention was to investigate in depth interviewees' meanings related to digital rights to complement the existing analyses of Internet Bill of Rights documents (e.g., Pettrachin, 2018) and efforts to define digital rights (see Dheere, 2017; Tan, 2019). The research interest was at the level of interviewees' meaning making from the perspectives of their work in the field. Thus, individual interviewees were not viewed as representatives of a particular "stake," country, or region even though meanings related to their particular locations often came up during the discussions.

The interview situation was approached as a co-construction of knowledge (Brinkmann, 2013). The aim was to allow interviewees to present their reflections as freely as possible and to enable the usefulness of participation for the interviewees. Participants were briefed about the research objectives and practices. They were asked for their consent to the recording of the interviews, storing of the material, analysis of the transcript, as well as to the anonymized quoting of the transcripts when presenting results. The interviews lasted between 50 and 70 minutes each, and the researcher transcribed them verbatim.

The interview themes focused on interviewees' interests and experiences in the field, their organizations' advocacy work, digital rights as a concept, and digital rights as a movement. Many also shared their personal trajectories related to the Internet and digital technologies, which added narrative elements to the interviews. While there were similarities among individuals, for example, in becoming involved in the field, there also was variation, for example, whether the interviewees identified with digital rights as a movement. Many interviewees were reflexive and critical throughout the discussion.

Discourse-Theoretical Analysis

The interview transcripts were subject to a discourse-theoretical analysis (Carpentier & De Cleen, 2007; Carpentier, 2010). In this approach, discourses are viewed as broader than language use as they are sociocultural meaning structures that can be more or less stable (Carpentier & De Cleen, 2007; De Cleen, Goyvaerts, Carpentier, Glynos, & Stavrakakis, 2021). Moreover, discourse theory (Laclau & Mouffe, 1985) provides a vocabulary to investigate how discourses are structured and how they relate to each other

(Carpentier & De Cleen, 2007; De Cleen et al., 2021). In this study, the discourse-theoretical concepts of floating signifier and subject position were used as sensitizing concepts in the analysis (Carpentier & De Cleen, 2007; Laclau, 2005).

In practice, the transcripts first were coded inductively using AtlasTI software to determine what was present on the semantic level and to identify repeated patterns of meaning across the data set (Braun & Clarke, 2006). The second phase of the analysis involved a close reading of the initial themes in connection with the sensitizing concepts to interpret the production and contestation of meaning (Howarth, 2005). When the notion of digital rights is approached as a floating signifier, it is understood as acquiring different meanings in different contexts (Carpentier & De Cleen, 2007) that can be articulated by different antagonistic frontiers (Laclau, 2005). Thus, the meaning of the floating signifier is subject to discursive struggles. This openness of meaning was part of the research process, for example, reflecting on the concept was a central topic in the semi-structured interviews. In connection with the meanings of digital rights, the analysis highlights some of the available subject positions, which describe interviewees' identification with digital rights discourses as well as the discursive construction of different actors' positions in the field (Carpentier & De Cleen, 2007).

Following Griggs and Howarth (2019), the discourse-theoretical analysis can be demonstrated in the following manner: When interviewees articulated digital rights through the statement "digital rights are human rights," digital rights and human rights become linked and modified, providing a new structure of meaning to human rights. Here, human rights function as a nodal point, that is, a privileged discursive point that partially fixes the meaning of the floating signifier, digital rights, "by constructing a knot of definite meanings" (Torfing, 1999, pp. 98–99).

Digital Rights as a Floating Signifier

The following sections present the findings through three interrelated perspectives on the meanings of digital rights based on the discourse-theoretical analysis. The first section focuses on the emergence of the notion and its partial fixity. The second section discusses how digital rights form "the new language around human rights," emphasizing discursive struggles connected to the scope of rights and establishing new norms. The third section discusses identifying with digital rights in the context of different organizations' work, particularly some of the subject positions connected to discursive struggles on the transnational level. These perspectives are illustrated with excerpts, some of which provide divergent views, indicated accordingly. The quotes have been edited and shortened slightly to improve overall readability.[4]

Emergence and Partial Fixity of Digital Rights

Many interviewees situated the origins of digital rights to events unfolding from the Arab Spring in 2011, when governments in different parts of the world introduced legislation that imposed limitations on the use of social media and the Internet. These events were discussed in relation to a reaction in which

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[4] Edits on the interviewees' quotes were limited to spelling, punctuation, and syntax changes to preserve their voices.

various civil society groups' concerns coalesced against state actors in different national contexts for some interviewees, constituting the "international digital rights movement" (Interviewee 1).

A discourse-theoretical reading suggests that digital rights became detached from earlier meanings[5] that emphasized copyright (see Postigo, 2012), and in the use of civil society actors, the concept was constructed discursively to represent various concerns against common antagonists, namely repressive state actors. Thus, the signifier digital rights enabled the inclusion of a plurality of demands, which could explain its use in relatively different contexts and some organizations' reframing of their activities as digital rights work, as well as its uptake by new civil society groups.

Simultaneously, the interviewees critically discussed the concept's ambiguity, asserting that digital rights later required fixity of meaning. According to a digital rights organization's founder, "I think that digital rights do not exist. What we need to have is regulation that can respect human rights in different environments, including the digital environment" (Interviewee 8). A common thread running through the interviews was a definition of digital rights as "human rights," emphasizing that these concepts are equal in meaning:

> I think we had the term before we have the definition in a way, and it's a good shorthand. Now I think people are going back and reconstructing what do we really mean by digital rights, and it's a good shorthand, but ultimately, it's still human rights. (Interviewee 2)

On this level of generality, equating digital rights with human rights appeared almost to be self-evident, but some interviewees noted that civil society actors had been involved actively in international arenas to create the linkage between human rights standards and the digital. Some projects explicitly aimed to articulate this linkage in global Internet governance and human rights fora, for example, the UN Human Rights Council (see also Jørgensen, 2013). Thus, a discourse-theoretical reading of the following quote emphasizes that this fixity of meaning is relative and requires active articulation:

> I think [. . .] particularly in 2011–2014 [. . .] we're saying Internet rights are human rights, but what does that actually mean? Like, what are the implications? [. . .] How do human rights laws and human rights standards and principles apply online? And I think really just pushing back on that sort of dominant narrative that freedom of expression, and somehow communication rights [. . .] somehow being privileged over other kinds of rights. (Interviewee 10)

As this excerpt demonstrates, even though human rights provided a structure of meaning that could anchor rights claims in the context of the Internet, which rights and how these rights apply were contested in the field. These aspects were at the core of civil society actors' work. Some interviewees critically discussed the prioritization of civil and political rights in civil society. This was viewed as being

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[5] According to Dheere (2017), the concept of digital rights stems from digital rights management, and civil society organizations such as European Digital Rights and the U.S.-based EFF were among the first groups to use the concept in their advocacy work.

connected to stronger existing jurisprudence, a reactive mode in civil society actors' advocacy work, and strongly influenced by U.S.-based discourses and organizations. Thus, the very definition of rights, acknowledged as a dominant understanding of digital rights, could exemplify how discursive power functions in the field.

Many interviewees explicitly stated that they did not conceptualize digital rights as separate rights for the Internet. Instead, they often expressed a common statement in the field: "Same rights online and offline." However, some interviewees problematized the online-offline dichotomy. One interviewee stated that rights were only enforceable offline, and this conflict lay at the heart of the field's existence. Many viewed this as outdated because of digitalization's increasing impact on people's everyday lives. Already signaling this perception before the COVID-19 pandemic, one interviewee considered how "people are forced online . . . whether you like the Internet or not" (Interviewee 6). For others, this was an argument for defining Internet access as a human right, an example of contestation connected to defining digital rights as human rights:

> We didn't want to sign a proposal of [. . .] a member of parliament [. . .] who wanted to consider digital rights [. . .] specific rights [. . .] the rights exist. There are fundamental rights and freedoms, and they are applicable online. [. . .] The problem is not to invent new rights. Maybe about access. Maybe about access, but about freedom of expression, about freedom of education, about else, privacy, etc. These rights exist, and the issue is not a question of these rights, or definition of these rights, but the application. How to apply these rights effectively today in the digital sphere. And it was our diagnosis of the issue. That's why digital rights, it's more rights in the digital spheres than digital rights, except digital access. (Interviewee 12)

Digital rights also were articulated in relation to technology companies. Many interviewees described an ongoing competition not only vis-à-vis state actors and regulators but also against technology companies. Some interviewees discussed these actors' roles in antagonistic terms, through their close relations with state actors to the exclusion of civil society. However, some interviewees positioned companies as allies on some digital rights issues and adversaries on other issues. Moreover, often companies were discussed as leaders of development, which civil society actors must adapt and react to:

> Every year, there is something new coming out, which means that the movement, the language of digital rights, has been changing or adapting almost on a yearly basis—AI [artificial intelligence], last year social media, before that there was the Internet shutdowns, which became network disruptions. Things are happening [. . .] faster than they did previously. But a whole lot more is also happening. (Interviewee 4)

Technologies such as facial recognition, algorithmic decision making, and black boxes were often discussed as threats, or as one interviewee put it, "How do we protect individual liberties, from a particular existential threat?" (Interviewee 7). One interviewee criticized the instrumental use of technology in civil society, stating, "When we are addressing problems at the level of the digital part or things, we're actually

not addressing the problems that are due to be solved" (Interviewee 2), referring to structural inequities, poverty, and racism. For some interviewees, reacting to challenges posed by technologies also presented the limitations of the human rights–based definition of digital rights:

> We use the framework of human rights, but we go beyond because we feel like that's not enough. Because there are many new challenges that are creeping up [. . .] that's an old framework. Just talking about what are the recognized human rights is not enough. Our approach is pretty much [. . .] what we see as the harms in digital spaces and then we think of informally what should the right be. So, it's sort of like a bigger definition. (Interviewee 11)

Thus, these examples reveal multiple antagonistic forces against which the notion of digital rights was articulated. The next sections delve in more detail into the various ways in which the interviewees defined digital rights in the context of their work and throughout the field.

Pluralizing Digital Rights

The interviewees examined several rights-based themes at the level of the organizations' work and more broadly among civil society actors involved in the field, demonstrating variation in the digital rights language. Many interviewees described how digital rights form "a new language around human rights" (Interviewee 4). Building on digital constitutionalism, this could be interpreted both as a translation of existing norms, rights, and principles as well as efforts to influence new norms in the making.

Commonly, interviewees' own work centered on specific rights, prominently freedom of expression and privacy. Some organizations focused on a broader set of human rights, for example, freedom of assembly. Many also discussed women's rights as well as sexual rights. Digital rights work extended further into access to knowledge, nondiscrimination, safety and security, copyright, data rights, and labor rights, among other areas. While the nucleus of rights identified in digital constitutionalism documents (Pettrachin, 2018; Redeker et al., 2018) was often present in these discussions, many interviewees also discussed themes, for example, environmental justice, that were not included in these studies. This highlights dynamic developments within the field.

One interviewee stated that it remained unclear whether all themes currently discussed as digital rights fit into the same framework. This plurality also demonstrates how the meaning of digital rights floats and remains open: The concept can be articulated in connection with varying normative assumptions (Karppinen & Puukko, 2020). For instance, while some interviewees foregrounded critical perspectives, for example, the need to criticize digital platforms' business models more explicitly, others articulated digital rights in terms of entitlements offered to individuals: "All the rights that contribute to making you a full participant in the digital revolution will come under digital rights" (Interviewee 3).

International arenas, for example, the IGF and human rights bodies, were viewed as sites in which the new language around human rights is shaped. Participating in these discussions was important for civil society actors as competitors vis-à-vis other powerful actors. Moreover, some interviewees emphasized that

"the Western narrative" (Interviewee 4) dominated international agendas, for example, by focusing on issues such as Snowden, AI, and blockchain technologies. Internet shutdowns were mentioned during several interviews as an issue that presented a growing threat that needed to be articulated in the language of rights. The following quote exemplifies an experience of success in this work:

> We managed to get some language on Internet shutdowns, some language condemning Internet shutdowns, at the highest level of the UN Human Rights Council resolutions. There have been several statements of UN special rapporteurs condemning shutdowns when they happen. A few reports also have mentioned them and other groups as well, like the Freedom Online Coalition issued a whole declaration on the issue of Internet disruptions as well. So, for us, we see that the work that we do is being recognized and [. . .] it then becomes part of the body of norms that we want to see to protect people's rights. (Interviewee 5)

This example highlights how a new phenomenon that many civil society actors defined as an issue was included in the rights-based language on the transnational level. It also emphasizes that the very process of definition produces the phenomena in the common language and practices of digital rights. The next section examines various identifications with digital rights and their uses to describe particular work within civil society.

Identifications With Digital Rights

Early on, for many interviewees, adopting the notion of digital rights in their organizations' work had been an active, strategic choice, often occurring when the organization became more involved in transnational arenas and networks or connected to specific foundations that provided funding for digital rights work. Moreover, for organizations that had focused on other themes in their earlier work, for example, civic participation, this framing often accompanied a shift, for instance, from organizing trainings on the use of the Internet and digital technologies toward policy advocacy for digital rights issues. Some interviewees had been present during an international meeting in which digital rights were first discussed:

> It was something that I already had started working on in terms of data privacy, in terms of surveillance, in terms of speaking about wrong policies, and things like that. But then I was part of a conversation [. . .] that then put a name on it. And the name was digital rights. [. . .] This is what I've been doing; it's called digital rights. Let's keep doing it. So, that was the beginning of a journey. (Interviewee 9)

For many, digital rights referred to a specific type of civil society organization. A founder of a digital rights organization described creating something that did not exist before in the country, implying that digital rights represented a new form of public interest advocacy: "We thought it would be important—not just copyright, but different other digital rights areas—to have a different voice, and we wanted to be that voice" (Interviewee 8). Many saw that digital rights differentiated their work from that of other civil society groups, for example, traditional human rights organizations or women's rights groups. The notion was used

to "manage expectations" toward other actors in the field, as stated in the following quote, which can also be read from a perspective that digital rights imply specific doing and knowledges:

> We were wondering if we should keep the term digital rights or whether we should move away from digital rights and just use human rights or human rights in the digital age, for example. And we decided to keep digital rights just because, it's also, well, sometimes to differentiate us and manage people's expectations in terms of what it is that we do. (Interviewee 5)

Often, a digital rights organization's position was perceived as being open to newcomers because the field was viewed as relatively young, even "ahistorical" (Interviewee 2), though expanding with new groups, and also because more traditional civil society organizations are adopting digital rights in their programs. One of the distinctive features of digital rights work was the ability to use the common language formed in the field:

> You'll see a proposal come out like traditional free speech or free press organization, and they're not using any of the common language that the rest of us use, and it's clear that they don't really have the expertise to be doing what they're doing. (Interviewee 1)

One of the interviewees working for an organization in the Global South expressed a more critical view, suggesting that this common language could have a colonizing effect on work that already had taken place in Global South contexts. In response to a question about whether the perspective of rights had become more important for the organization at a specific point in time, the interviewee responded,

> No, in a sense, it's been weird because we've been doing this for 15 years. [. . .] Like, everyone in our field in the Global South has been doing this for a while, and suddenly, there is this language. For us, it is almost a thing, like watching a new language to that. [. . .] There is rights. [. . .] The lawyers are getting involved. [. . .] This is good because normal people can pay attention to what we've been working on, but this is also rather weird. It's almost like Christopher Columbus discovering America. Something that already existed. (Interviewee 7)

This excerpt also highlights a gap between transnational Internet governance arenas and civil society actors' work on the local level (Costa e Silva & Lameiras, 2021). Moreover, the interviewees discussed in particular asymmetries in relation to the subject positions of "the Global South" and "marginalized groups," for example, women, refugees, and rural and poor communities. Some also discussed technologies' impact on the lives of "affected communities." Interviewees discussed the exclusion of these groups from global arenas. This was linked to a lack of participation that would mean "speaking for themselves" (Interviewee 4) and highlighted that "there's still a lack when it comes to consideration of these groups in rights" (Interviewee 1):

> I mean, you've seen there is limited space for the village, right, and I feel like it's always the same. It takes a lot of work to even put up a session, and basically, to be able to have

> a booth and have people there and have materials to share. So, I would say yes, there is
> a lot more groups from around the world that should probably be here. [. . .] It's so much
> work that I think a lot of less-funded—less-mature, for lack of a better word—not that
> they're not professional, but that they just haven't been around that long, so less-mature
> groups simply can't do this. (Interviewee 6)

Some interviewees also discussed how norm shaping linked to transnational arenas tended to misrecognize issues that were relevant to civil society in a specific context. For example, global debates about content moderation practices to address "revenge porn" had failed to address rape videos that were relevant for women's rights advocates in India. A similar power asymmetry was highlighted in the relationship between digital platforms and local civil society actors: Platforms were viewed as unresponsive to local civil society actors' concerns.

To address some of these problems, interviewees discussed a discursive strategy in which groups with capacities and resources act as bridges between "grassroots" and "global" arenas. For example, civil society actors collected local knowledges to share in transnational formal spaces, for example, the IGF, and connected these spaces with civil society–led fora:

> We need to [. . .] influence global bodies because once the policy is made, then you can't
> unmake it. It's very hard. [. . .] It's still hard to try and influence it, but it's easier. [. . .]
> For us, it's important that we bring in this set of experiences; otherwise, they won't figure
> at all in global policy. (Interviewee 11)

Thus, civil society actors' digital rights work involved navigating a field with structural power imbalances that were viewed as amplifying exclusions from rights-based discourses.

Discussion: Productive Power in Digital Constitutionalism

The findings from the discourse-theoretical analysis draw attention to how power is entangled with transnational digital rights discourses. Research on digital constitutionalism has focused on how various Internet Bill of Rights initiatives have framed rights in relation to the Internet and other digital technologies, potentially functioning as a source of restrictive power toward corporate and state actors (e.g., Padovani & Santaniello, 2018; Redeker et al., 2018). This article proposes using the lens of productive power to investigate digital rights as a plural and political concept, which allows contesting but can also produce power (Barnett & Duvall, 2005; Foucault, 1980).

Earlier research on digital constitutionalism already has identified differences in how various actors have framed rights in Internet Bill of Rights documents, a perspective that the findings support. The findings highlight that as an existing transnational structure of meaning, human rights provided a shared basis for civil society actors' work, and this partial fixity enabled linking specific issues to existing norms and values in transnational communication governance spaces. However, it was not self-evident which rights are promoted and how they apply in relation to the Internet and other digital technologies. Thus, the articulation of digital rights also involved discursive struggles in relation to other actors and within civil society.

In this sense, norms, rights, and principles do not simply emerge as they are produced in the common language by very articulatory practices. Productive power can be viewed as a constitutive relationship among actors although often an asymmetrical one. For example, technology companies were often positioned to lead developments that civil society actors conceptualized as digital rights issues. Through this dynamic, norms were articulated reactively as a response to technological risks. Moreover, particular civil society actors were often positioned as marginalized within dominant articulations or excluded from shaping global norms.

This article suggests that research on digital constitutionalism can benefit from this broader conceptualization of power to engage with asymmetries in the dominant transnational discourses while opening space for bottom-up approaches to norms, rights, and principles (e.g., Redeker, 2018). Understood as a floating signifier at the nexus of social, economic, and political struggles, the notion of digital rights remains fluid and open to a plurality of competing articulations. In this sense, the lens of productive power enables investigating which perspectives digital rights discourses prioritize and what kinds of positions they enable for different subjects. Instead of a universalizing perspective, what is left out of digital rights discourses due to power asymmetries in transnational communicative exchanges should be examined.

Conclusions

This article focused on civil society actors' perspectives on digital rights through a discourse-theoretical approach, contributing to research on the roles and power of civil society in Internet governance (Costa e Silva & Lameiras, 2021; Tjahja et al., 2021). Digital constitutionalism has been proposed as a novel, rights-based Internet governance approach, focusing on the limitation of public and private actors' power (e.g., Celeste, 2019; Redeker et al., 2018). This article offers a complementary perspective by highlighting discursive, productive power (Barnett & Duvall, 2005; Foucault, 1980). It also highlights that while digital rights may provide a meaningful contestation site, the articulation of rights alone does not necessarily guarantee all actors' participation or limit dominant actors' capacities. Further engagement is needed through questions about which perspectives are produced within the very definitions of norms, rights, and principles on the unequal grounds of transnational communication governance.

Although this article can provide only one reading of the work in a dynamic field, it provides insights on the plural and political meanings of digital rights. However, the meanings analyzed here are not exhaustive, and research can further investigate how various actors articulate digital rights in political, societal, and economic struggles pertaining to the "digital." Moreover, future research also can investigate further how digital rights are enacted in practices beyond their implementation in policy and regulation, including civil society actors' local rights work. While earlier research has highlighted the nonbinding nature of Internet Bill of Rights documents, the findings of this article indicate that global norms still can imply varying, productive effects, for example, by shaping what is perceived as feasible in civil society actors' advocacy work in different contexts.

Finally, considering that some interviewees raised questions concerning the "ahistorical" approach to digital rights, further research is needed to examine connections to earlier movements and discourses on communication and human rights (Padovani et al., 2010; Padovani & Calabrese, 2014). Framing current issues as unprecedented might preclude analyzing them in connection with historical forms of oppression, thereby undermining the potential for social justice. This article highlights that as digital rights discourses may change over time to cover new issues, a contextual understanding of rights matters. As discourse cannot be an entirely cemented entity, digital rights remain open to discursive struggles.

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